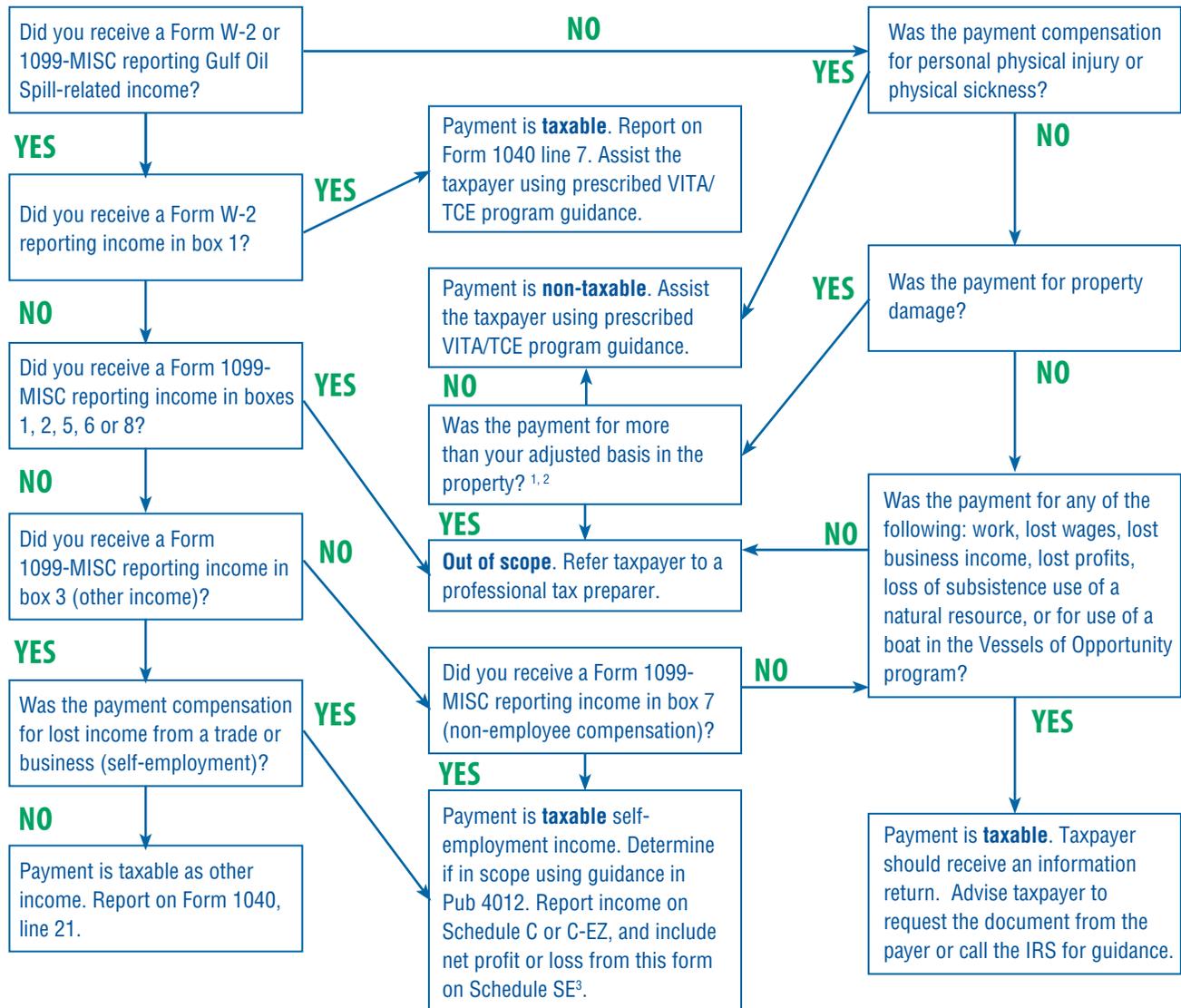


Decision Tree – Gulf Oil Spill Affected Taxpayers

This decision tree should be used during the screening/intake process to assist taxpayers who received payments or settlements in relation to the Gulf Oil Spill. First determine if the taxpayer's other income and tax situation falls within the scope of the VITA/TCE program.

START HERE:



1. Calculation of basis is generally outside the scope of VITA/TCE. If the payment for property damage is less than the taxpayer's basis in the property, the taxpayer's basis must be reduced by the amount of the payment. Refer taxpayer to Publication 551 for guidance.
2. Taxpayer may also have a casualty loss. Casualty losses are out of scope for the VITA/TCE program. Refer taxpayer to Publication 547 or a professional tax preparer.
3. If taxpayer believes their payment was incorrectly categorized on Form 1099-MISC, taxpayer should seek a corrected form from the payer or File Form SS-8: Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding.



Form 1099-MISC Income Reporting Guidance Gulf Oil Spill Affected Taxpayers

This table should be used to assist taxpayers in understanding how Gulf Oil Spill claims payments appearing on Form 1099-MISC should be reported on Form 1040 and if the payment is in scope for VITA/TCE return assistance.

1099-MISC Entry	Description	Where to Report	Scope
Box 1 Rents	Rents, including real estate rentals and personal property rentals such as equipment or vehicles	Report rental real estate on Schedule E For rental of personal property, is the taxpayer in the business of renting personal property? – If yes , report on Form 1040, Schedule C – If no , report on Form 1040, line 21	Out of scope. Refer taxpayer to Form 1040 Instructions or professional tax preparer.
Box 3 Other Income	Taxable damages including compensation for lost wages or lost business income	Report taxable payments as income on Form 1040. Report payments for lost wages on Form 1040, line 21. If payment is a replacement of lost business income , report in gross receipts on Form 1040, Schedule C or C-EZ and complete Schedule SE	In scope.
Box 4 Federal Income Tax Withheld	The amount of federal income tax withheld by the payer	Report as tax withheld in the Payments section of Form 1040	In scope.
Box 5 Fishing Boat Proceeds	Individual's share of proceeds from the sale of a catch.	Report on Form 1040, Schedule C and include net profit or loss from this form on Schedule SE	Out of scope. Refer taxpayer to Publication 334 or a professional tax preparer.
Box 7 Nonemployee Compensation	Payments received as a business owner or independent contractor.	Report on Form 1040, Schedule C or C-EZ and include net profit or loss from this form on Schedule SE	In scope.

All other boxes of Form 1099-MISC are out of scope for VITA/TCE. Refer taxpayers receiving this type of income to a professional tax preparer.

Why did the payer issue a Form 1099-MISC instead of a W-2?

Generally, a worker who performs services is an employee if the employer has the right to control what will be done and how it will be done. An employee will receive a **Form W-2** reporting their earnings. People who are in business for themselves and offer their services to the public and bear the risk of profit or loss are generally not employees. They are generally considered independent contractors and may receive a **Form 1099-MISC** reporting income paid to them.

Refer taxpayers to Publication 1779, Independent Contractor or Employee, for additional guidance. You may also suggest that the taxpayer file Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding, with the IRS. The IRS will review the facts and circumstances and officially determine the taxpayer's status.

